

1 BOIES SCHILLER FLEXNER LLP
2 RICHARD J. POCKER (NV Bar No. 3568)
3 300 South Fourth Street, Suite 800
4 Las Vegas, NV 89101
5 Telephone: 702.382.7300
6 Facsimile: 702.382.2755
7 rlocker@bsflp.com

8 PAUL, WEISS, RIFKIND, WHARTON &
9 GARRISON LLP
10 WILLIAM A. ISAACSON (*pro hac vice*)
11 KAREN DUNN (*pro hac vice*)
12 2001 K Street, NW
13 Washington, DC 20006
14 Telephone: 202.223.7300
15 Facsimile: 202.223.7420
16 wisaacson@paulweiss.com
17 kdunn@paulweiss.com

18 MORGAN, LEWIS & BOCKIUS LLP
19 BENJAMIN P. SMITH (*pro hac vice*)
20 JOHN A. POLITICO (*pro hac vice*)
21 SHARON R. SMITH (*pro hac vice*)
22 One Market, Spear Street Tower
23 San Francisco, CA 94105
24 Telephone: 415.442.1000
25 Facsimile: 415.442.1001
26 benjamin.smith@morganlewis.com
27 john.polito@morganlewis.com
28 sharon.smith@morganlewis.com

29 DORIAN DALEY (*pro hac vice*)
30 JAMES C. MAROULIS (*pro hac vice*)
31 ORACLE CORPORATION
32 500 Oracle Parkway, M/S 5op7
33 Redwood City, CA 94070
34 Telephone: 650.506.4846
35 Facsimile: 650.506.7114
36 dorian.daley@oracle.com
37 jim.maroulis@oracle.com

38 *Attorneys for Plaintiffs Oracle USA, Inc.,*
39 *Oracle America, Inc., and Oracle*
40 *International Corp.*

41 UNITED STATES DISTRICT COURT

42 DISTRICT OF NEVADA

43 ORACLE USA, INC.; a Colorado corporation;
44 ORACLE AMERICA, INC.; a Delaware
45 corporation; and ORACLE INTERNATIONAL
46 CORPORATION, a California corporation,

47 Plaintiffs,

48 v.

49 RIMINI STREET, INC., a Nevada corporation;
50 and SETH RAVIN, an individual,

51 Defendants.

52 Case No. 2:10-cv-0106-LRH-VCF

53 **ORACLE'S RESPONSE TO
54 RIMINI'S MOTION FOR
55 RECONSIDERATION OF THE
56 COURT'S MARCH 31, 2021
57 ORDER TO SHOW CAUSE**

1 **I. INTRODUCTION**

2 On March 31, 2021, this Court found “by clear and convincing evidence, that Rimini is
 3 violating the permanent injunction,” ordered Rimini to show cause why it should not be held in
 4 contempt, and scheduled an evidentiary hearing for September 20, 2021 to hear additional
 5 evidence about additional violations of the Court’s Injunction arising from Rimini’s PeopleSoft
 6 and JD Edwards support practices. ECF No. 1459 (“March 31, 2021 Order”).

7 Rimini’s Motion for Reconsideration asks this Court to vacate two pages from the Court’s
 8 March 31, 2021 Order that analyze Rimini’s unlawful cross-use of PeopleSoft environments
 9 associated with Campbell Soup Company and City of Eugene to develop and test its PPACA
 10 updates HCM104286 and HCM104288, conduct that is an adjudicated infringement of Oracle’s
 11 copyrights. *See* ECF No. 1460-1 (Rimini’s Proposed Order). Rimini asserts that “[b]ecause the
 12 acts related to the Campbell Soup and City of Eugene updates occurred years before the
 13 permanent injunction went into effect, those updates could not violate the injunction.” Motion at
 14 4. While Oracle agrees that HCM104286 was developed in 2014, and HCM104288 was
 15 developed in 2015 and 2016 (before the Court issued its permanent injunction on August 15,
 16 2018), Oracle does not agree that the Court’s analysis of these updates is irrelevant to the
 17 upcoming evidentiary hearing. Rimini’s proposed order is overbroad and would jettison the
 18 Court’s framework for analyzing what unlawful conduct constitutes a violation of the Injunction.
 19 The Court was very careful in its March 31, 2021 Order to instruct the parties regarding how
 20 violations of the Injunction should be analyzed, and it would be unhelpful and improper to strike
 21 those instructions.

22 **II. FACTUAL BACKGROUND**

23 On September 14, 2020, the Court granted in relevant part Oracle’s motion for partial
 24 summary judgment (in the *Rimini II* action) that Rimini infringed Oracle’s PeopleSoft copyrights
 25 when developing and testing its PPACA updates HCM104286 and HCM104288. *Rimini II*, ECF
 26 No. 1253 at 38–66. Rimini developed its PPACA update HCM104286 in 2014. *Id.* at 44, 46.
 27 Rimini developed its PPACA update HCM104288 in 2015 and 2016. *See Rimini II*, ECF No. 904

1 at 6–7 (Oracle’s Motion for Partial Summary Judgment on Cross-Use and Derivative Works). In
 2 its March 31, 2021 Order, the Court further analyzed these PPACA updates and provided a
 3 framework for identifying certain categories of unlawful conduct that constitute a violation of the
 4 Injunction issued in *Rimini I*.

5 With respect to update HCM104286, the Court ruled in its March 31, 2021 Order that
 6 “when Rimini created and tested [this update] in Campbell Soup’s environment, even knowing
 7 that Campbell Soup did not want the update, such copying was not for Campbell Soup’s sole
 8 ‘internal data processing operations.’” ECF No. 1459 at 17. The Court further ruled that “when
 9 this update was then sent to Rimini’s client Toll Brothers (without any *separate development or*
 10 *testing* in a Toll Brothers environment), the Court held that Rimini used Campbell Soup’s
 11 development environment, under color of Campbell Soup’s license, to develop the update for the
 12 benefit of Toll Brothers in violation of the ‘internal data processing operations’ provision of the
 13 license.” *Id.* (emphasis in original). “[S]uch conduct,” the Court held, “violates the permanent
 14 injunction,” particularly paragraphs 4 and 6. *Id.* This analysis provides a framework for
 15 establishing additional violations of the Injunction.

16 With respect to update HCM104288, the Court ruled in its March 31, 2021 Order that this
 17 individual update “was a derivative work: it substantially incorporated protected material from
 18 the preexisting work because Rimini used the PeopleTools Application Designer utility (which is
 19 part of Oracle’s PeopleTools software) to create the update, and the update could not be used with
 20 any software programs other than PeopleSoft.” *Id.* at 17–18. The Court also ruled that Rimini
 21 engaged in unlicensed conduct when it “‘prototyped’ the update in City of Eugene’s environment,
 22 and then sent it to three other clients without any testing or development in their respective
 23 environments—such development could not be solely for City of Eugene’s ‘internal data
 24 processing operations.’” *Id.* at 18. And the Court further “held that in that instance, Rimini’s
 25 prototyping of the update and later distribution of the update to other clients, also violated section
 26 4.1 of the [City of Eugene] license.” *Id.* “[T]his conduct,” the Court ruled, “also violates the
 27 permanent injunction,” particularly paragraphs 4 and 6, thus providing an additional framework
 28

1 for establishing violations of the Injunction. *Id.*

2 **III. ARGUMENT**

3 Oracle intends to rely upon the Court’s well-reasoned framework regarding Rimini’s two
 4 PPACA updates to establish additional violations of the Injunction (in addition to the examples
 5 presented in Oracle’s Motion for Order to Show Cause as to which the Court requested an
 6 evidentiary hearing) at and before the September 20, 2021 evidentiary hearing. As just one
 7 example, after the Injunction went into effect, Rimini [REDACTED]
 8 HCM104288 update—one of the two PPACA updates at issue—[REDACTED]

9 [REDACTED] *See Declaration of John A. Polito, Ex. 1 at 5–8*

10 ([REDACTED]); Ex. 2

11 ([REDACTED]); Ex. 3 ([REDACTED]

12 [REDACTED]).

13 While Oracle agrees that some modification of the Court’s Order is unobjectionable,
 14 Rimini’s proposed order should be rejected because it would jettison the Court’s framework for
 15 proving violations of the Injunction outlined above. Rimini’s requested remedy is also overbroad
 16 to the extent it seeks to amend the Court’s findings as to all “updates related to … City of
 17 Eugene.” Motion at 4; *see also* Proposed Order. That proposed amendment is improper because
 18 there are updates related to the City of Eugene for which this Court has issued an order to show
 19 cause that are not the subject of Rimini’s reconsideration request. ECF No. 1459 at 19–20
 20 (“Rimini update ‘rsi940.sqr’ was tested in COE [City of Eugene] and then sent to all clients in
 21 scope. This appears to be a classic example of unlawful cross-use and Rimini using one client’s
 22 environment under color of license for another client. … Accordingly, the Court issues an order
 23 to show cause as to this conduct.”) (citations omitted). To the extent that any reconsideration is
 24 warranted, it should be limited to clarifying that although Rimini’s development of HCM104286
 25 and HCM104288 occurred before the Injunction, similar conduct occurring after the Injunction is
 26 grounds for contempt.

1 MORGAN, LEWIS & BOCKIUS LLP
2 DATED: April 16, 2021
3 By: /s/ John A. Polito
4 John A. Polito
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6 Attorneys for Plaintiffs Oracle USA, Inc., Oracle
7 America, Inc. and Oracle International
8 Corporation
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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of April, 2021, I electronically transmitted the foregoing **ORACLE'S RESPONSE TO RIMINI'S MOTION FOR RECONSIDERATION OF THE COURT'S MARCH 31, 2021 ORDER TO SHOW CAUSE** to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel being registered to receive Electronic Filing.

MORGAN, LEWIS & BOCKIUS LLP

DATED: April 16, 2021

By: /s/ John A. Polito
John A. Polito

Attorneys for Plaintiffs Oracle USA, Inc., Oracle America, Inc. and Oracle International Corporation